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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,248	07/19/2001	Biswa R. Banerjee	11465/491	9312

7590 07/20/2009  
Patent Administrator  
Suite 1600  
525 West Monroe Street  
Chicago, IL 60661-3693

EXAMINER
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BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
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2628

MAIL DATE	DELIVERY MODE
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07/20/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* Biswa R. Banerjee  
S. Christopher Gladwin  
Arif Maskatia  
Alan Soucy

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Application No. 09/909,248  
Technology Center 2600

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Mailed: July 20, 2009

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Before DEBORAH L. PERRY, *Supervisory Paralegal Specialist, Review Team.*

PERRY, *Supervisory Paralegal Specialist, Review Team.*

**ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER**

This application was electronically received by the Board of Patent Appeals and Interferences on July 13, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the

application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

APPEAL BRIEF

STATUS OF CLAIMS

A review of the Appeal Brief, filed, October 9, 2008, finds that the appendix entitled Status of Claims is unclear and/or is not consistent with the status of claims of record. The status of the claims as provided in the Appeal Brief must be consistent with the last entered amendment (what claims are pending, withdrawn, abandoned and/or on appeal). A review of the last entered amendment finds that claims 2-5 and 8-13 were cancelled.

To correct this, the Examiner may hold the Appeal Brief defective and require the Appellant to file a “paper” in compliance OR the Examiner may issue a PTOL-90 to update the Status of Claims in the Examiner’s Answer.

EXAMINER’S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed in this application on June 15, 2009. There is no evidence on the record indicating that the Examiner has considered the

Reply Brief in accordance with 37 CFR § 41.43(a)(1) and MPEP § 1208, part II.

### CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on October 9, 2008, defective and require the Appellant to file a “paper” correcting the appendix heading: Status of Claims; or alternatively
- 2) for the Examiner to update in the Examiner’s Answer, Status of Claims. The Examiner may do this on a Form PTOL-90 (the same form he considers the Reply Brief below on);
- 3) consider the Reply Brief filed June 15, 2009 as indicated above;
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/jsd

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